



Reprinted
March 25, 2005

ENGROSSED HOUSE BILL No. 1059

DIGEST OF HB 1059 (Updated March 24, 2005 2:13 pm - DI 52)

Citations Affected: IC 13-22.

Synopsis: Chemical munitions disposal and transport. Provides that a hazardous waste facility that generates or treats certain hazardous wastes associated with chemical munitions must demonstrate that the wastes will be destroyed or treated to certain standards or levels. Requires the department of environmental management (IDEM) to implement an inspection and oversight protocol to ensure enforcement. Requires a person that transports chemical munitions or hazardous waste derived from bulk neutralization and destruction of the agent VX to: (1) coordinate the transport with each state through which the substance will be transported; (2) file with IDEM, the state police department, and the state emergency management agency an evaluation of potential transportation risks and a transport safety plan; and (3) transport only at times that provide maximum public safety.

Effective: Upon passage.

Grubb, Thomas, Brown T
(SENATE SPONSORS — GARD, SKINNER)

January 4, 2005, read first time and referred to Committee on Environmental Affairs.
January 25, 2005, amended, reported — Do Pass.
February 1, 2005, read second time, amended; referred to Committee on Ways and Means pursuant to Rule 127.
February 17, 2005, reported — Do Pass.
February 21, 2005, read second time, ordered engrossed. Engrossed.
February 22, 2005, read third time, passed. Yeas 96, nays 0.
SENATE ACTION
February 24, 2005, read first time and referred to Committee on Energy and Environmental Affairs.
March 21, 2005, amended, reported favorably — Do Pass.
March 24, 2005, read second time, amended, ordered engrossed.

EH 1059—LS 6317/DI 52+



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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1059

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-22-3-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a)** In addition
3 to any other requirements, ~~a permit may not be issued under this~~
4 ~~chapter for the construction or operation of a hazardous waste facility~~
5 ~~to be used for the destruction or treatment of a chemical munition~~
6 ~~unless the person applying for the permit has demonstrated that~~
7 ~~generates or treats a hazardous waste classified as I001 must~~
8 ~~demonstrate~~ all of the following:

9 (1) That the destruction or treatment technology to be used at the
10 proposed hazardous waste facility: ~~has been in operation:~~

11 ~~(A) at a facility comparable to the proposed hazardous waste~~
12 ~~facility; and~~

13 ~~(B) for a time sufficient to demonstrate that (A) will destroy~~
14 ~~or treat~~ ninety-nine and nine thousand nine hundred
15 ninety-nine ten thousandths percent (99.9999%) of the
16 chemical munition processed; ~~at the comparable facility has~~
17 ~~been destroyed or treated; or~~

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(B) will ensure that the waste has been treated in such a way that designated chemical munition constituents are treated to a specific level as approved by the commissioner.

(2) That monitoring data from a ~~comparable~~ the hazardous waste facility demonstrates that there are no emissions from the ~~comparable~~ facility that alone or in combination with another substance present a risk of any of the following:

(A) An acute or a chronic human health effect.

(B) An adverse environmental effect.

(3) That a plan to:

(A) provide sufficient training, coordination, and equipment for state and local emergency response personnel needed to respond to possible releases of harmful substances from the proposed hazardous waste facility; and

(B) evacuate persons in the geographic area at risk from the worst possible release of:

(i) the chemical munition; or

(ii) a substance related to the destruction or treatment of the chemical munition;

from the proposed hazardous waste facility;

has been funded and developed.

(b) The department shall implement an inspection and oversight protocol for each hazardous waste facility described in subsection (a) to ensure that the requirements of this title are met.

SECTION 2. IC 13-22-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7.5. Transportation of Chemical Munitions

Sec. 1. This chapter applies to a person that transports:

(1) a chemical munition referred to in 329 IAC 3.1-6-3, as in effect on January 1, 2005; or

(2) hazardous waste derived from the bulk neutralization and destruction of the agent VX referred to in IC 13-11-2-25(6).

Sec. 2. (a) Subject to subsections (b) and (c), before transporting a substance referred to in section 1 of this chapter, a person must coordinate the transport with the appropriate state agencies of each state through which the substance will be transported and file in Indiana the following with the department, state police department, and state emergency management agency:

(1) A written evaluation of potential transportation risks that:

(A) accounts for the type and quantity of hazardous waste to be transported;

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- 1 (B) identifies the most likely types of incidents that could:
 2 (i) occur during the transport; and
 3 (ii) result in harm to the public health or environment;
 4 (C) assesses the likelihood of the occurrence of each type of
 5 incident referred to in clause (B);
 6 (D) identifies the magnitude of the potential harm to the
 7 public health or environment associated with each type of
 8 incident referred to in clause (B); and
 9 (E) is written in a manner understandable to:
 10 (i) the scientific community; and
 11 (ii) the public.
- 12 (2) A written transport safety plan that:
 13 (A) is tailored to the risks described in subdivision (1);
 14 (B) demonstrates that the driver of each vehicle to be used
 15 in the transport:
 16 (i) has received United States Department of
 17 Transportation training and licensure; and
 18 (ii) is familiar with the content of the plan;
 19 (C) demonstrates for the transport route that appropriate
 20 procedures and response personnel will be available for:
 21 (i) medical response;
 22 (ii) environmental response;
 23 (iii) local law enforcement response; and
 24 (iv) evacuation of the area; and
 25 (D) provides for submitting notice to the department
 26 before the first shipment of each particular chemical
 27 munition or hazardous waste described in section 1 of the
 28 chapter is transported.
- 29 (b) A notice submitted under the transport safety plan provision
 30 described in subsection (a)(2)(D) must include the estimated
 31 shipment schedule for each chemical munition or hazardous waste
 32 for the duration of the transport activity. A person who transports
 33 a chemical munition or hazardous waste described in subsection (a)
 34 shall immediately notify the department of any major variations
 35 from the estimated shipment schedule provided under this
 36 subsection.
- 37 (c) A person must file an amended:
 38 (1) evaluation of potential transportation risks; and
 39 (2) transport safety plan;
 40 under subsection (a) only if the proposed transport route changes.
- 41 Sec. 3. The transport of a substance referred to in section 2 of
 42 this chapter shall occur at times that provide maximum public

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1 **safety.**
2 SECTION 3. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1059, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, delete "may not".

Page 1, line 5, strike "be used for the destruction or treatment of a chemical".

Page 1, line 6, strike "munition".

Page 1, delete line 7.

Page 1, line 8, delete "unless" and insert **"that generates or treats a hazardous waste classified as I001 must demonstrate"**.

Page 1, line 8, delete "have been demonstrated:" and insert ":".

Page 2, line 1, delete "chemical munition processed is".

Page 2, delete line 2.

Page 2, line 3, delete "analytical method" and insert **"waste has been treated in such a way that designated chemical munition constituents are treated to a specific level as"**.

Page 2, line 36, after "department" insert **", state police department, and state emergency management agency"**.

Page 3, line 12, after "licensed;" delete "and".

Page 3, line 19, delete "area." and insert **"area; and"**.

Page 3, between lines 19 and 20, begin a new line double block indented and insert:

"(D) provides for submitting notice to the department before the first shipment of each particular chemical munition or hazardous waste described in subsection (a) is transported.

(d) A notice submitted under the transport safety plan provision described in subsection (b)(2)(D) must include the estimated shipment schedule for each chemical munition or hazardous waste for the duration of the transport activity. A person who transports a chemical munition or hazardous waste described in subsection (a) shall immediately notify the department of any major variations from the estimated shipment schedule provided under this subsection."

and when so amended that said bill do pass.

(Reference is to HB 1059 as introduced.)

WOLKINS, Chair

Committee Vote: yeas 12, nays 0.

EH 1059—LS 6317/DI 52+



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HOUSE MOTION

Mr. Speaker: I move that House Bill 1059 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Page 2, delete lines 25 through 42, begin a new paragraph and insert:

"SECTION 2. IC 13-22-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7.5. Transportation of Chemical Munitions

Sec. 1. This chapter applies to a person that transports:

- (1) a chemical munition referred to in 329 IAC 3.1-6-3, as in effect on January 1, 2005; or
- (2) hazardous waste derived from the destruction or treatment of a chemical munition referred to in subdivision (1).

Sec. 2. (a) Before transporting a substance referred to in section 1 of this chapter, a person must file with the department, state police department, and state emergency management agency the following:

- (1) A written transport risk analysis that:
 - (A) accounts for the type and quantity of hazardous waste to be transported;
 - (B) identifies each type of incident that could:
 - (i) occur during the transport; and
 - (ii) result in harm to the public health or environment;
 - (C) assesses the likelihood of the occurrence of each type of incident referred to in clause (B);
 - (D) identifies the magnitude of the potential harm to the public health or environment associated with each type of incident referred to in clause (B); and
 - (E) is written in a manner understandable to:
 - (i) the scientific community; and
 - (ii) the public.
- (2) A written transport safety plan that:
 - (A) is tailored to the risks described in subdivision (1);
 - (B) demonstrates that the driver of each vehicle to be used in the transport is appropriately trained and licensed;
 - (C) demonstrates for each part of the transport route that appropriate procedures and facilities will be in place for

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immediate:

- (i) medical response;**
- (ii) environmental response;**
- (iii) security response; and**
- (iv) evacuation of the area; and**

(D) provides for submitting notice to the department before the first shipment of each particular chemical munition or hazardous waste described in section 1 of the chapter is transported.

(b) A notice submitted under the transport safety plan provision described in subsection (a)(2)(D) must include the estimated shipment schedule for each chemical munition or hazardous waste for the duration of the transport activity. A person who transports a chemical munition or hazardous waste described in subsection (a) shall immediately notify the department of any major variations from the estimated shipment schedule provided under this subsection.

Sec. 3. (a) A person who transports a substance referred to in section 1 of this chapter shall submit a transportation fee of two hundred dollars (\$200) to the commissioner for each shipment of a substance.

(b) The commissioner shall deposit fees collected under this section in the chemical munitions response fund established in section 4 of this chapter.

Sec. 4. (a) The chemical munitions response fund is established for the following purposes:

(1) Fifty percent (50%) of the money in the fund shall be distributed to counties that contain a hazardous waste facility described in IC 13-22-3-10 that is used for the destruction or treatment of a chemical munition for the following purposes:

(A) To provide appropriate education, training, and equipment to local emergency responders concerning substances referred to in section 1 of this chapter.

(B) To repair and maintain roads used to transport substances referred to in section 1 of this chapter.

(C) To prevent, prepare for, and respond to acts of terrorism involving substances referred to in section 1 of this chapter.

(D) Any other purpose associated with:

- (i) the transportation of; or**
- (ii) public safety issues concerning;**

substances referred to in section 1 of this chapter.

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(2) Fifty percent (50%) of the money in the fund shall be distributed to state agencies that are involved in the transportation of substances referred to in section 1 of this chapter for the following purposes:

(A) To provide appropriate education, training, and equipment to state emergency responders concerning substances referred to in section 1 of this chapter.

(B) To repair and maintain roads used to transport substances referred to in section 1 of this chapter.

(C) To prevent, prepare for, and respond to acts of terrorism involving substances referred to in section 1 of this chapter.

(D) Any other purpose associated with:

(i) the transportation of; or

(ii) public safety issues concerning;

substances referred to in section 1 of this chapter.

(b) Sources of money for the fund consist of transportation fees deposited under section 3(b) of this chapter.

(c) The department shall administer the fund. Money in the fund is annually appropriated to the department to be used for purposes described in subsection (a).

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(f) Money in the fund at the end of a fiscal year does not revert to the state general fund."

Page 3, delete lines 1 through 32.

(Reference is to HB 1059 as printed January 26, 2005.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1059, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

AYRES, Vice Chair

Committee Vote: yeas 16, nays 0.

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EH 1059—LS 6317/DI 52+



COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1059, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 32, delete "destruction or" and insert **"bulk neutralization and destruction of the agent VX referred to in 13-11-2-25(6)."**

Page 2, delete lines 33 through 34.

Page 2, line 35, delete "Before" and insert **"Subject to subsections (b) and (c), before"**.

Page 2, line 36, after "file" insert **"the following"**.

Page 2, line 37, delete "and".

Page 2, line 37, delete "the" and insert **", and the corresponding state agencies of each state through which the substance will be transported:"**.

Page 2, delete line 38.

Page 2, line 39, delete "transport risk analysis" and insert **"evaluation of potential transportation risks"**.

Page 2, line 42, delete "each type" and insert **"the most likely types"**.

Page 2, line 42, delete "incident" and insert **"incidents"**.

Page 3, line 14, delete "is appropriately trained and licensed;" and insert **"**:

- (i) has received United States Department of Transportation training and licensure; and**
- (ii) is familiar with the content of the plan;"**.

Page 3, line 15, delete "each part of".

Page 3, line 16, delete "facilities" and insert **"response personnel"**.

Page 3, line 16, delete "in place" and insert **"available"**.

Page 3, line 16, after "for" insert **":"**.

Page 3, delete line 17.

Page 3, line 20, delete "security" and insert **"local law enforcement"**.

Page 3, delete lines 34 through 42, begin a new paragraph and insert:

"(c) A person must file an amended:

(1) evaluation of potential transportation risks; and

(2) transport safety plan;

under subsection (a) only if the proposed transport route changes.

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Sec. 3. The transport of a substance referred to in section 2 of this chapter shall occur at times that provide maximum public safety."

Delete page 4.

Page 5, delete lines 1 through 2.

and when so amended that said bill do pass.

(Reference is to HB 1059 as printed February 18, 2005.)

GARD, Chairperson

Committee Vote: Yeas 6, Nays 0.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1059 be amended to read as follows:

Page 2, line 35, after "must" insert "**coordinate the transport with the appropriate state agencies of each state through which the substance will be transported and**".

Page 2, line 36, after "file" insert "**in Indiana**".

Page 2, line 36, after "police department," insert "**and**".

Page 2, line 37, delete ", and the corresponding state" and insert ":".

Page 2, delete lines 38 through 39.

(Reference is to EHB 1059 as printed March 22, 2005.)

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